

CHAD WRIGHT  
Assistant Federal Defender  
Federal Defenders of Montana  
Helena Branch Office  
50 West 14th Street, Suite 1  
Helena, Montana 59601  
Phone: (406) 449-8381  
Email: chad\_wright@fd.org  
Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

BRYANT NICHOLAS ESPINOZA,

Defendant.

**CR 24-26-H-BMM**

**DEFENDANT ESPINOZA'S  
OPPOSED MOTION TO  
DISMISS COUNT 2 BECAUSE  
IT VIOLATES DOUBLE  
JEOPARDY**

**MOTION**

Defendant Bryant Nicholas Espinoza (Mr. Espinoza), by and through his counsel of record, Chad Wright, and the Federal Defenders of Montana, hereby moves to dismiss Count 2 of the Indictment.

Count 2 alleges that, in violation of 18 U.S.C. §922(g)(8), Mr. Espinoza knowingly possessed a firearm used in interstate commerce on February 6, 2024, while knowing he was subject to an active California domestic violence restraining

order. Mr. Espinoza was previously convicted of Violation of Order of Protection pursuant to Mont. Code Ann. §45-5-626 for knowingly possessing the same firearm on February 6, 2024, in violation of the same California restraining order of which he had notice. *State v. Bryant Nicholas Espinoza*, Lewis and Clark County Justice Court, TK-515-2024-722.

Prosecuting Count 2 violates the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution. The dual sovereignty doctrine does not apply because Montana derived its authority to convict Mr. Espinoza under 18 U.S.C. §2265, the Violence Against Women Act (1994).

## EXHIBITS

The following exhibits are attached to this motion for the Court’s review:

<b>Document</b>	<b>Exhibit</b>
August 9, 2021, DV-130 Restraining Order.....	A
April 9, 2024, Arrest Ticket .....	B
April 9, 2024, Affidavit of Probable Cause .....	C
July 3, 2024, Judgment .....	D
July 3, 2024, Change of Plea and Sentencing Hearing .....	E

## CONTACT WITH OPPOSING COUNSEL

Assistant United States Attorney, Paulette L. Stewart, has been contacted regarding this motion and she objects on behalf of the government.

**CONCLUSION**

WHEREFORE, based on this motion and the brief that supports it, Mr. Espinoza requests that the Court dismiss Count 2 of the Indictment.

RESPECTFULLY SUBMITTED this 4<sup>th</sup> day of February, 2025.

/s/ Chad Wright  
CHAD WRIGHT  
Assistant Federal Defender  
Federal Defenders of Montana  
Counsel for Defendant

**CERTIFICATE OF SERVICE  
L.R. 5.2(b)**

I hereby certify that on February 4, 2025, a copy of the foregoing document was served on the following persons by the following means:

1 CM-ECF

2 Mail

1. CLERK, UNITED STATES DISTRICT COURT

1. PAULETTE STEWART  
Assistant United States Attorney  
United States Attorney's Office  
901 Font Street, Suite 1100  
Helena, MT 59626  
Counsel for the United States of America

2. BRYANT ESPINOZA  
Defendant

/s/ Chad Wright  
FEDERAL DEFENDERS OF MONTANA